

SENATE BILL NO. 252

INTRODUCED BY V. COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE CRITERIA REQUIRED BEFORE AN INSURER MAY CONVERT A CLAIMANT'S TEMPORARY TOTAL DISABILITY BENEFITS OR TEMPORARY PARTIAL DISABILITY BENEFITS TO PERMANENT PARTIAL DISABILITY BENEFITS; AMENDING SECTION 39-71-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-609, MCA, is amended to read:

"39-71-609. Denial of claim after payments made or termination of all benefits or reduction to partial benefits by insurer -- fourteen days' notice required -- ~~exception criteria for conversion of benefits.~~

(1) Except as provided in subsection (2), if an insurer determines to deny a claim on which payments have been made under 39-71-608 during a time of further investigation or, after a claim has been accepted, terminates all biweekly compensation benefits, it may do so only after 14 days' written notice to the claimant, the claimant's authorized representative, if any, and the department. For injuries occurring prior to July 1, 1987, an insurer ~~must~~ shall give 14 days' written notice to the claimant before reducing benefits from total to partial. However, if an insurer has knowledge that a claimant has returned to work, compensation benefits may be terminated as of the time the claimant returned to work.

~~(2) Temporary total disability benefits may be terminated on the date that the worker has been released to return to work in some capacity~~ TEMPORARY TOTAL DISABILITY BENEFITS MAY BE TERMINATED ON THE DATE THAT THE WORKER HAS BEEN RELEASED TO RETURN TO WORK IN SOME CAPACITY. Unless the claimant is found, at maximum healing, to be without a permanent physical impairment from the injury, the insurer, prior to converting temporary total disability benefits or temporary partial disability benefits to permanent partial disability benefits:

(a) must have a physician's determination that the claimant has reached medical stability;

(b) must have a physician's determination of the claimant's physical restrictions resulting from the industrial injury;

(c) must have a physician's determination, based on the physician's knowledge of the claimant's

1 job analysis prepared by a rehabilitation provider, that the claimant can return to work, with or without
2 restrictions, on the job on which the claimant was injured or on another job for which the claimant is suited
3 by age, education, work experience, and physical condition;

4 (d) shall give notice to the claimant of the insurer's receipt of the report of the physician's
5 determinations required pursuant to subsections (2)(a) through (2)(c). The notice must be attached to a
6 copy of the report."

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8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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